



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

ENE/146444

PRELIMINARY RECITALS

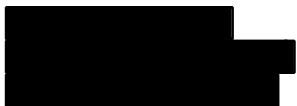
Pursuant to a petition filed January 07, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Washington County Department of Social Services in regard to Energy Assistance, a hearing was held on February 05, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency properly granted the Petitioner benefits in the amount of \$121 for energy assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: Kay Lucas, Energy Services Worker
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Washington County.
2. On October 15, 2012, the Petitioner submitted an application for energy assistance. The Petitioner report Social Security Disability Income of \$1,202/month for the three previous

months. She also reported income from a work training program of \$268.25, \$889.94 and \$580 for the previous 3 months. She reported total 3 month household income of \$5,344.18.

3. On or about November 20, 2012, the agency issued a Client Benefit Notice to the Petitioner informing her that she would receive heating assistance in the amount of \$77 and public benefit assistance of \$44. A total of \$121 was paid on the Petitioner's behalf for energy assistance.
4. On January 7, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Energy Assistance is a state-run program established by federal law. See 42 USC § 8621, et seq. and Wis. Stat. § 16.385. Rules for the program must follow Wisconsin statutes, but where the statutes are silent the Department of Administration may set policies. Eligibility depends upon a household's income not exceeding 60% of the state average. Wisconsin Home Energy Assistance Program, Program and Operations Manual, §§ 1.3 and 2.3.1.

(Found online at <http://homeenergyplus.wi.gov/docview.asp?docid=22169>.)

Unless the applicant is a seasonal worker, financial eligibility is based upon the household's gross income during the three months before the application date. Manual, § 2.3.2. Applicants must verify the income of everyone in the household for those three months. Manual, § 3.4.28. In addition, applicants must verify other essential information. Manual, § 3.4.

Households denied a heating benefit or a PB (electric) benefit during the heating season may reapply for the denied benefit if the conditions leading to denial of that benefit (heat or electric) have changed. A household may apply multiple times if not deemed eligible on earlier applications. Households have the right to apply throughout the year. Manual, § 2.1.

WHEAP eligible households may receive one regular heating and one electric benefit providing the application is initiated before the end of the heating season and LIHEAP or Public Benefits funds are available during the heating season. Once a household is determined WHEAP eligible the household remains eligible for crisis assistance for the duration of the program year regardless of the date of the application. Manual, § 3.1.5.

Home Energy Assistance Heat Benefits are primarily based on relationship of household income to the state median income, size of the dwelling (number of rooms), dwelling type, and home energy costs. The primary factors affecting the regular electric (non-heating) benefit are the household income and the non-heating electric use. A table of the maximum income allowable for various family sizes is provided on the Home Energy Plus* Web site. They are also available in the WHEAP brochures sent to the agencies.

The agency testified at the hearing that the benefit was calculated as required based on the information the Petitioner provided in her application. The Petitioner did not dispute the income information and other information provided or present any evidence to indicate that the agency did not properly take those factors into consideration. The Petitioner did dispute that the benefit is a one-time payment noting that her annual costs are much higher than the \$121 benefit. The Petitioner also noted that her utility costs increased in December.

The Petitioner seeks equitable relief which I have no authority to provide. The policy manual allows for a one time payment per heating season which the Petitioner received.

CONCLUSIONS OF LAW

The agency properly issued energy assistance benefits of \$121 to the Petitioner.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

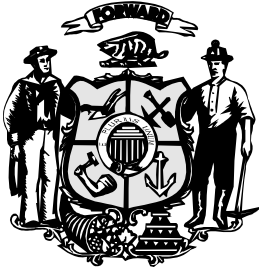
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Administration. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 101 East Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 26th day of February, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 26, 2013.

Washington County Department of Social Services
DOA - Energy Assistance